

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5051 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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LALITKUMAR G VASOYA

Versus

STATE OF GUJARAT

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Appearance:

MR ASHWIN PANDYA for Petitioners

None present for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/07/97

ORAL JUDGMENT

#. Shri S.R.Divetia and Smt. Siddhi Talati, AGPs are present in the Court and when they were called upon to make submissions, they have shown their inability to assist the Court on the ground that neither the papers of the Specail Civil Application have been given to them nor they have any instructions to appear in the matter, nor any officer of the respondent is present in the Court

alongwith relevant record.

#. It is second case on the Board today where the State Government and its officers have not given any assistance to this Court to decide the matter. So this is another matter on today's Board where there is no representation of State Government which is the biggest litigant in the Court. However, hearing of the matters cannot be deferred only on the ground of non cooperative attitude of the respondent-State and its officers.

#. Perused the Special Civil Application and heard learned counsel for the petitioners.

#. On 17th September 1985, this Court has ordered:

Rule. To be heard alongwith Spl. C.A. 3723/83.  
Ad-interim relief in terms of para 16(d). Notice as to interim relief returnable on 8.10.85. D.S.  
Writ to be handed over today to the petitioner's learned counsel.

The learned counsel for the petitioners submitted that Special Civil Application No.3723 of 1983 has already been disposed of by this Court on 3rd March 1997. A certified copy of this order has also been shown for perusal of this Court by learned counsel for the petitioners. The learned counsel for the petitioners further submitted that in this Special Civil Application, all the petitioners have been protected by grant of interim relief and they are continued in service. It has next been contended by learned counsel for petitioners that this Special Civil Application may also be disposed of in terms in which the Special Civil Application No.3723 of 1983 has been disposed of. It is further stated that the petitioners in this Special Civil Application were appointed on daily wages in different irrigation projects of the Government. Reference is made to the Resolution of the Government dated 26th June 1983 wherein it has been declared that benefits of Circular, Annexure 'D' would be available to only those daily rated employees who are completing five years' service on 31st March 1983 and who are possessing the educational qualification of SSC. The petitioners felt that they are likely to be disqualified for the appointment as daily rated workers and hence they filed this Special Civil Application before this Court challenging that Circular.

#. Reply to the Special Civil Application has been filed by respondent wherein the respondents have come up with the case that the petitioners have tried to mislead this

Court. The Circular, reference of which has been made by petitioners, are not applicable to their cases as they were engaged as daily rated labourers and not as Karkun. It is further stated that the petitioners were engaged in a particular scheme and that cannot be continued after the completion of the purpose for which they have been engaged.

#. In Special Civil Application No.3723 of 1983, the matter was somewhat identical and this Court has, relying on the decision of Hon'ble Supreme Court in the case of State of Himachal Pradesh v. Ashwani Kumar & Ors., reported in JT 1996(1) SC 214 and in the case of State of Himachal Pradesh v. Nodha Ram & Ors., reported in JT 1996(1) SC 220, held that the daily wagers appointees have no right to hold the post nor they can compel the Government to take them on another Project on completion of a particular Project or scheme, but as those petitioners were working on interim relief granted by this Court, this Court has disposed of the petition with directions to the respondents that in case the petitioners therein have been absorbed elsewhere during this period, then they may be continued in service. In case they have not been absorbed elsewhere and there is no work for all those petitioners, and they are continued only as this Court has granted stay in their favour, then it shall be open for respondents to terminate their services in accordance with law. The Court has further observed that before terminating the services of those petitioners, the respondents shall take into consideration the fact that those petitioners are in service for all these years, may be under interim relief granted by this Court. So the petitioners counsel in this Special Civil Application submitted that this petition may also be disposed of in the same terms. Order accordingly.

#. In the result, this Special Civil Application is disposed of with directions to the respondents to consider the cases of petitioners in terms that in case these petitioners have also been absorbed elsewhere during this period, then they may be continued in services. In case they have not been absorbed elsewhere and there is no work for all these persons and they are continued only as this Court has granted stay in their favour, then it shall be open for respondents to terminate their services in accordance with law. However, it is for the respondents to take into consideration the fact that these petitioners are in service for all these years, may be under interim relief granted by this Court.

#. The Special Civil Application and Rule therein  
stand disposed of accordingly. No order as to costs.

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